

P-999/CI-89-477INITIATING INVESTIGATION AND ORDER TO SHOW CAUSE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of a Petition from the Residential Utilities Division of the Office of the Attorney General for an Investigation into the Restriction of Access to Information Services

ISSUE DATE: October 23, 1989

DOCKET NO. P-999/CI-89-477

ORDER INITIATING INVESTIGATION
AND ORDER TO SHOW CAUSE

BACKGROUND

Currently ratepayers in Minnesota are offered access by some interexchange carriers, including AT&T Communications of the Midwest, Inc. (AT&T), MCI, and Allnet, to interstate information and long distance service providers through 1-900 and 1-700, 1-976 dialing codes. The information providers (IPs) typically provide messages consisting of pre-recorded jokes, horoscopes, investment information, adult messages, stories, sports information, as well as live conversation with one or more people on a number of subjects. The services also include lines which allow the caller to join several other callers for group discussions. Northwestern Bell Telephone Company (NWB) offers unrestricted local access to interstate information provider services provided by several long distance carriers.

The customer calling such a number is charged either a flat per-call rate ranging from fifty cents to several dollars for the service or the call is billed on a per-minute rate. The information service is billed as a long distance call and billing and collection for these charges is provided by either the local exchange company (LEC), who bills for the interexchange carrier, or the interexchange carrier who bills customers directly.

A customer who has AT&T, MCI, or Allnet as his long distance provider has immediate and unrestricted access to these 700 and 900 services. Also, ratepayers in NWB's service area have unrestricted access to interstate information provider services regardless of which long distance provider has been chosen by the customer. Information providers control the message or information made available to calling customers.

PROCEDURAL HISTORY

On June 28, 1989 the Residential Utilities Division of the Office of the Attorney General (RUD-OAG) filed a petition with the Minnesota Public Utilities Commission (the Commission) asking the Commission to initiate an investigation into problems related to unrestricted access to information providers. The RUD-OAG stated that unrestricted access to 900, 700, and interstate 976 number services has resulted in unauthorized calls made by minors, the emotionally disturbed, and others incapable of entering a valid contract to the financial detriment of innocent subscribers. The RUD-OAG stated that government agencies have received more than 100 complaints regarding these interstate information services. The RUD-OAG stated that the unrestricted access to interstate information provider services creates the same types of problems the Commission addressed in In the Matter of the Commission Initiated Investigation of the Reasonableness of Dial Data Service offered by Northwestern Bell Telephone Company, Docket No. P-421/CI-87-631. In that case, the Commission required Northwestern Bell Telephone Company to provide blocking of local 976 services at no charge to its customers. Also, the Commission ruled that customers would not be responsible for bills incurred before the customers had notice that unauthorized calls were being made.

The RUD-OAG asked that the Commission initiate a summary investigation and proposed that the Commission order all local telephone companies to provide 900, 700, and interstate 976 blocking service free of separate charges; place the cost of blocking on the interexchange carrier offering the 900, 700, or interstate 976 services; prohibit the disconnection of local service for nonpayment of 900, 700, and interstate 976 charges; and examine whether long distance service may be terminated for nonpayment of the same charges.

The RUD-OAG also asked that the Commission take interim action during the pendency of the investigation to prevent all local exchange companies from terminating local service and interexchange carriers from terminating long distance service for nonpayment of 900, 700, and interstate 976 charges; require telephone companies to inform their customers of this policy; provide mediation services through the Commission's Consumer Affairs Office (CAO) for charges that have already been incurred; and require refunds of all 900 and 700 charges which have been incurred since December, 1988 by households with 976 blocking.

On July 19, 1989, NWB filed its response to the RUD-OAG petition. NWB opposed the procedures recommended by the RUD-OAG. NWB stated that it had an internal policy prohibiting disconnection of local service for nonpayment of 900 or 700 charges; that it has customer complaint procedures; that a blanket rule of forgiveness or refunds of such charges on an interim basis pending an investigation is overbroad and inflexible; and finally, that the RUD-OAG proposal requires permanent relief prior to an investigation.

In comments filed August 24, 1989, AT&T opposed the RUD-OAG's request for an investigation and stated that if the Commission did initiate an investigation concerning the blocking of information services that the Commission should not impose the interim procedures requested by the RUD-OAG as they are unnecessary and burdensome.

The Commission met on October 17, 1989 to consider this matter.

FINDINGS AND CONCLUSIONS

The Commission recognizes that many complaints have been received by state agencies regarding unlimited access to and excessive bills relating to the unauthorized use of 900, 700, and interstate 976 services. Children or other legally incompetent persons have made repeated calls to information providers and incurred large bills without the knowledge or consent of parents or guardians. The Commission finds that some remedial action is necessary to address these problems. However, there is no agreement on the extent of the problems, the number and nature of possible solutions, the extent of Commission jurisdiction, or whether customers, telephone companies, or information providers should bear the cost of correcting these problems.

Issues relating to the technical feasibility of blocking, the types of blocking available to customers, the allocation of the costs of blocking, alternatives to blocking, Commission jurisdiction over interstate information services, the legality of termination of local or long distance services for failure to pay 900, 700, and interstate 976 charges have been raised.

Commission Authority

Minn. Stat. § 237.081 (1988) gives the Commission the express authority to summarily investigate any matter relating to any telephone service for any reason. The Commission concludes that an investigation into interstate information services is necessary to address the issues raised by the RUD-OAG petition. The Commission recognizes that the issues raised here are complex and that they need to be clearly defined before they can be resolved. The Commission also finds that this matter must be investigated as thoroughly and as quickly as possible. Therefore, the Commission will direct that interested parties submit comments on the scope of the investigation, specifically:

1. What factual issues should be investigated? Interested parties should identify what methods are currently available to protect residential customers, business, and nonprofit organizations from charges for unauthorized calls to interstate information provider services and identify possible cost allocations for providing those protections.
2. What jurisdictional issues need to be addressed?
3. Are material issues of fact in dispute? Is a contested case proceeding necessary?
4. What procedures and time frames should be adopted for this investigation?
5. Any other issues related to the scope of this investigation and the procedure to be followed.

The Commission does not intend to limit parties' ability to identify other relevant issues. These

comments are due no later than November 13, 1989. During this proceeding all parties will be afforded full discovery rights. Procedures for processing information requests will be established by the Commission in a later Order.

The Commission will order all local exchange and interexchange telephone companies currently operating in Minnesota to notify within 15 days of this Order all interstate information providers for whom they provide billing and collection services of this investigation. Local exchange companies and interexchange carriers may coordinate notice to information providers to avoid duplication of notice. Information providers may wish to present their views in this investigation and should be encouraged to do so.

Interim Relief Request

The Commission will provide interested parties an opportunity to file comments on the RUD-OAG's interim relief proposals described above. These comments are also due on November 13, 1989. Specifically, the Commission will ask that interested persons address the Commission's authority to order refunds of all 900 and 700 charges which have been incurred since December, 1988 by households with 976 blocking and the need to order those refunds.

Also, the Commission will require each Minnesota local exchange company and interexchange carrier to file information with the Commission by November 13, 1989 indicating whether or not it provides billing and collections services for interstate information provider services.

Further the Commission will require that all local exchange companies and interexchange carriers who provide billing and collection services for information providers to state whether they terminate or threaten to terminate local and or long distance services respectively for nonpayment of 900, 700, and interstate 976 charges.

Finally, those companies that do disconnect or threaten to disconnect local or long distance service for nonpayment of interstate information provider services charges will be ordered to show cause no later than November 13, 1989 why they should not be found to be in violation of Minn. Rules, part 7810.2000, subp. B. That rule provides that a telephone utility may not disconnect service to any customer for failure to pay for equipment or service not approved by the Commission as an integral part of the telephone utility service.

The Commission reminds local exchange companies and interexchange carriers that the Commission's Consumer Affairs Office provides mediation services for customer complaints and should be used to resolve them.

ORDER

1. The Commission hereby initiates an investigation, pursuant to the provisions of Minn. Stat. §

237.081 (1988) into the provision of interstate information services.

2. Any interested person who would like to comment on the issues to be raised in this investigation shall submit those comments to the Commission and the Department of Public Service in writing, no later than November 13, 1989.
3. Any interested person who would like to comment on the issues raised by the RUD-OAG regarding interim relief measures for the pendency of this investigation shall submit those comments to the Commission and the Department of Public Service in writing, no later than November 13, 1989.
4. Within 15 days of this Order, all Minnesota local exchange companies and interexchange carriers who provide billing and collection for interstate information providers shall notify those providers of the Commission's investigation. Local exchange companies and interexchange carriers may coordinate notice to information providers to avoid duplicating notice.
5. No later than November 13, 1989, each Minnesota local exchange company and interexchange carrier shall file information with the Commission and the Department of Public Service in writing indicating whether or not it provides billing and collection services for interstate information provider services.
6. No later than November 13, 1989, each Minnesota local exchange company and interexchange carrier who provides billing and collection services for information providers must file information with the Commission and the Department of Public Service indicating whether they terminate or threaten to terminate local and or long distance services for nonpayment of interstate information provider services charges. Each Minnesota local exchange company or interexchange carrier who does terminate or threaten to terminate local/long distance service for nonpayment of these charges must show cause no later than November 13, 1989 why they should not be found to be in violation of Minn. Rules, part 7810.2000, subp. B.
7. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)